



ATTORNEY DOCKET NO. 14114.0342U3
APPLICATION NO. 10/738,443

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	
Fields <i>et al.</i>)	Art Unit: 1648
)	
Application No. 10/738,443)	Examiner: Horning, Michelle S.
)	
Filing Date: December 16, 2003)	Confirmation No. 8740
)	
For: SYNTHETIC PEPTIDES IMMUNOREACTIVE)	
WITH HEPATITIS A VIRUS ANTIBODIES)	

ELECTION UNDER RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer Number 52488

Sir:

This is in response to the Office Action issued April 18, 2006, wherein restriction of the claims of the above-referenced application is required.

The Office Action requires restriction to one of the following groups of claims:

- Group I: Claims 44-47, drawn to methods for the detection of antibodies against Hepatitis A virus, classified in class 435, subclass 5; and
- Group II: Claims 48-53, drawn to methods of making a synthetic peptide to enhance immunoreactivity or immunogenicity, classified in class 530, subclass 333.

Applicants provisionally elect Group I, claims 44-47, drawn to methods for the detection of antibodies against Hepatitis A virus, with traverse.

The Office Action further requires an election of a species from the group of SEQ ID NOs: 1-88.

Applicants provisionally elect the peptide having the amino acid sequence identified as SEQ ID NO:47.

Applicants request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) the search and examination of the entire application cannot be made without serious burden. See M.P.E.P. § 803.

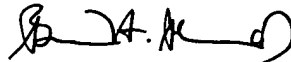
In particular, the Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine the groups together. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the groups should be searched and examined together. For these reasons, reconsideration and withdrawal of the restriction requirement are requested.

For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office (PTO), and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Consequently, reconsideration and withdrawal or modification of the restriction requirement is requested.

No fee is believed due; however, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

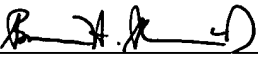


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CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence, including any items indicated as attached or included, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.



Bruce H. Becker, M.D., J.D.

5/11/06

Date